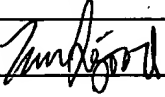



#5

**CERTIFICATE OF HAND DELIVERY**

I hereby certify that this correspondence is being hand delivered to the U.S. Patent and Trademark Office, Customer Service Window, Room 1B03, Crystal Plaza Building 2, Arlington, Virginia 22202

<b>Typed or Printed Name</b>		TAMARA LIVENGOOD	
<b>Signature</b> 		<b>Date</b> 4/4/02	
<p style="text-align: center;"><b>PETITION</b> <b>Under 37 CFR 1.53(e)</b></p> <p>Address to: Commissioner for Patents Washington, D.C. 20231</p> 		<b>Attorney Docket</b>	LIFE-029
		<b>First Named Inventor</b>	Kermani
		<b>Application Number</b>	09/974,597
		<b>Filing Date</b>	October 10, 2001
		<b>Group Art Unit</b>	N/A
		<b>Confirmation No.</b>	7123
		<b>Examiner Name</b>	N/A
		<b>Title: DETERMINATION OF SAMPLE VOLUME ADEQUACY IN BIOSENSOR DEVICES</b>	

07/23/2002 AKELLEY 00000011 500815  
01 FC:105 130.00 CH

Sir:

This Petition Under 37 CFR 1.53(e) is in response to the following: (1) a Notice of Incomplete Nonprovisional Application mailed on November 9, 2001 for failure to provide drawings in the above-referenced application and (2) a Request for Substitute Papers mailed on March 19, 2002 stating that the papers (which include a Transmittal Cover Page, a Copy of Notice of Incomplete Nonprovisional Application, the Declaration, a notice of Change of Correspondence, 5 sheets of drawings, a Recordation Form Cover Sheet and an Assignment) mailed by Applicant on December 10, 2001 are no longer in a condition to become part of the application due to the U.S. Postal Service sanitization process.

**Background Information**

On October 10, 2001, Applicant filed the subject application with the U.S.P.T.O. as evidenced by the attached copy of the Notice of Incomplete Nonprovisional Application Filing /Receipt date. Due to an unintentional mistake on behalf of Applicant, the drawings referenced in the application were not mailed with the application. On November 9, 2001, a Notice of Incomplete Nonprovisional Application was mailed to Applicant informing Applicant of the lack of drawings. On December 10, 2001 in response to such Notice, Applicant timely filed such drawings with the U.S.P.T.O. Due to no fault of the Applicant, the drawings were temporarily lost or held by the U.S. Postal Service, and as a result, were not received by the U.S.P.T.O. until January 17, 2002, which date has been designated by the U.S.P.T.O. as the filing date of the application as indicated by a Request for Substitute Papers mailed on March 19, 2002.

**Applicant is Entitled to a Filing Date of October 10, 2001**

For the reasons provided below, Applicant believes it is entitled to a filing date of October 10, 2001 and hereby requests such filing date be made official.

**RECEIVED**

**APR 16 2002**

**OFFICE OF PETITIONS**

Applicant herein asserts that the drawings referenced in the application filed on October 10, 2001 are not necessary to meet the requirements under 35 U.S.C. §111 and §113 and under 37 C.F.R. §1.71 and §1.75. Furthermore, all other requirements, including the payment of fees, were also met by the application as filed on October 10, 2001. As such, the application as filed on October 10, 2001 is considered to be a complete application under such requirements.

Further, §601.1(f) of the M.P.E.P states that "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113." The subject application contains 22 claims directed to a method.

Accordingly, Applicant requests that it be granted a filing date of October 10, 2001, which date is evidenced by copy of the Notice of Incomplete Nonprovisional Application Filing /Receipt date.

Upon receipt of an Official Filing Receipt indicating that the application has been granted a filing date of October 10, 2001, Applicant shall submit a Preliminary Amendment redacting all references to the drawings if such is required.


Submission of Substitute Papers

In response to the Request for Substitute Papers, enclosed herewith are copies of all documents identified in item (2) above as they were filed on December 10, 2001.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.17(i) which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815.

Respectfully submitted,  
BOZICEVIC, FIELD & FRANCIS LLP

Date: 4/3/02

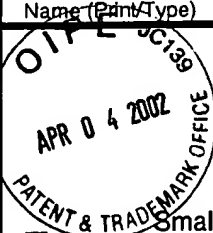
By:   
Carol M. LaSalle  
Registration No. 39,740

BOZICEVIC, FIELD & FRANCIS LLP  
200 Middlefield Road, Suite 200  
Menlo Park, CA 94025  
Telephone: (650) 327-3400  
Facsimile: (650) 327-3231

**RECEIVED**  
APR 16 2002  
OFFICE OF PETITIONS

# CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Name (Print/Type)	Donna Macedo	Signature	D. Macedo	Date	12-10-2001
 <p style="font-size: 1.2em; font-weight: bold;">TRANSMITTAL</p> <p>Small Entity <input type="checkbox"/> Large Entity <input type="checkbox"/></p>			Application Number	09/974,597	
			Confirmation Number	7123	
			Filing Date	October 10, 2001	
			First Named Inventor	Mahyar Z. Kermani	
			Examiner	Unassigned	
			Group Art	N/A	
			Attorney Docket No.	LIFE029	

ENCLOSED:	Claims	No. of claims as filed or after amendment	Most claims previously paid for	# Extra Claims	Rate	Totals
<input type="checkbox"/> Amendment Under Rule <input type="checkbox"/> 37 CFR § _____ <input type="checkbox"/> Pages _____	Total					\$ -
	Independent					\$ -
	Multiple					
	Total Extra Claim Fees					\$ -


<input type="checkbox"/> Applicants Petition for an Extension of time from _____ to _____	A _____ month extension was previously filed and paid for thereby reducing the basic fee
Fee _____	

<input checked="" type="checkbox"/> R sponse to Notice of Incomplete Nonprovisional appl. (with copy of formalities letter)	
<input type="checkbox"/> Filing Fee	Fee _____
<input checked="" type="checkbox"/> Executed Declaration	Pages <u>3</u> Surcharge Fee _____
<input checked="" type="checkbox"/> Other <u>Change of Correspondence</u>	Fee _____
<u>5 Sheets of Figures</u>	Fee _____
_____	Fee _____
_____	Fee _____
Subtotal \$ -	

<input type="checkbox"/> Information Disclosure Statement	
<input type="checkbox"/> PTO Form 1449	Pages _____
<input type="checkbox"/> _____ Copies of Cited References	
<input type="checkbox"/> Other _____	
Fee _____ Subtotal \$ -	

<input type="checkbox"/> R sponse to Notice to Comply (with copy of Notice to Comply)	
<input type="checkbox"/> Sequence Listing Certification	Fee _____
<input type="checkbox"/> Paper Copy of Sequ nc Listing	Pages _____
<input type="checkbox"/> Diskette in computer-readable format	
<input type="checkbox"/> Other _____	
Fee _____	

12/10/01  
 DOCKETED

<input type="checkbox"/> Terminal Disclaimer		Fee
<input type="checkbox"/> Appeal to Board of Appeals and Appeal Communication to Group		
<input type="checkbox"/> Notice of Appeal	Pages _____	Fee _____
<input type="checkbox"/> Appeal Brief in Triplicate	Pages _____	Fee _____
<input type="checkbox"/> Reply Brief	Pages _____	Fee \$ -
		Subtotal \$ -
<input type="checkbox"/> Other Enclosures and/or Fees _____		Fee _____
<input type="checkbox"/> Change of Correspondence Address		
<input checked="" type="checkbox"/> Return Receipt Postcard		TOTAL FEES \$ -
<p><b>The Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Deposit Account 50-0815. If additional fees are required, including extensions of time, please consider this a petition therefore.</b></p>		
<b>SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED</b>		
Name (Print/Type)	Carol M. LaSalle	Registration No. 39,740
Signature		Date 12-10-2001
Firm Name	Bozicevic, Field & Francis LLP	Address 200 Middlefield Road, Suite 200
City	Menlo Park	State California zip 94025
Telephone - Direct Dial	650-327-3400	Facsimile 650-327-3231

Application No. 09/974,597 Attorney Docket No. LIFE029 Page 2 of 2



UNITED STATES PATENT AND TRADEMARK OFFICE

 COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
 www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/974,597	10/10/2001	Mahyar Z. Kermani	LFS-122

000027777

 AUDLEY A. CIAMPORCERO JR.  
 JOHNSON & JOHNSON  
 ONE JOHNSON & JOHNSON PLAZA  
 NEW BRUNSWICK, NJ 08933-7003

RECEIVED

NOV 14 2001

J &amp; J PAT. DKT. SECTION

CONFIRMATION NO. 7123

FORMALITIES LETTER

\*OC000000007052391\*

Date Mailed: 11/09/2001

## NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within TWO MONTHS of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).

The required items noted below SHOULD be filed along with any items required above. The filing date of this nonprovisional application will be the date of receipt of the items required above.

- The oath or declaration is unsigned.

COPY FORWARDED TO ASSIGNEE

 DATE: 11/16/01  
 SIGNED: CEIL SURMAN
A copy of this notice **MUST** be returned with the reply.

KSAYSON

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY